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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,316	03/14/2001	Rene Kiesewetter	Mo-6051/WW-5571	3729

157 7590 11/22/2002

BAYER CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205

EXAMINER

MARCANTONI, PAUL D

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 11/22/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,316

Applicant(s)

Kiesewetter et al.

Examiner

Paul Marcantoni

Group Art Unit

1255

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3-14-01.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-9 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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Claims 1-9 are generic to a plurality of disclosed patentably distinct species of polysaccharide comprising polysaccharide ester, polysaccharide ether, and mixtures thereof.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species or specific mixture, even though this requirement is traversed.

Should applicants elect polysaccharide ether, they are respectfully requested to elect one species:

Claims 1-9 are generic to a plurality of disclosed patentably distinct species of polysaccharide ether selected from the group consisting of cellulose ether, starch ether, guar ether, and mixtures thereof.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species or specific mixture, even though this requirement is traversed.

Should applicants elect polysaccharide ester, they are respectfully requested to elect one of the following species:

Claims 1-9 are generic to a plurality of patentably distinct species of cellulose ester, starch ester, and mixtures thereof.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species or specific mixture, even though this requirement is traversed.

Claims 1-9 are generic to a plurality of patentably distinct species of building material selected from the group consisting of applied renders, tile adhesives, floor leveling compositions, jointing fillers, mortars, spraycrete compositions, screeds,

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cement, lime/sandstone extrudates, filler compositions, distempers, silicate paints, mineral paints, or emulsion paints.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is (703)-308-1196. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Mark Bell can be reached on (703) 308-3823. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9310 for regular communications and (703)-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



Paul Marcantoni
Primary Examiner
Art Unit 1755